

**REMARKS**

This Amendment is filed in response to the Final Office Action mailed June 21, 2005. All objections and rejections are respectfully traversed.

Claims 1-20 are in the case.

No claims have been added.

No claims have been amended.

***Claim Rejections - 35 U.S.C. §102***

At paragraphs 6-11 of the Final Office Action claims 1, 9-11, and 16 were rejected under 35 U.S.C. §102(e) as being unpatentable in view of Boucher et al., U.S. Publication No. 2001/0027496, filed on March 12<sup>th</sup>, 2001 (hereinafter Boucher).

The Applicant notes Boucher was filed on March 12<sup>th</sup>, 2001, approximately 3 months before the Applicant's filing date. While the Applicant does not admit Boucher has actual prior art status, even assuming arguendo Boucher is prior art, the reference would not anticipate the Applicant's claims.

The Applicant's claim 1, representative of the other rejected claims, sets forth:

1. A method for ***uniformly distributing data transmitted by a server over a plurality of underlying links*** of an aggregate within a computer network, the method comprising the steps of:  
    defining a unit of data as a datagram;  
    apportioning each datagram into at least one fragment at the server;  
    ***associating each fragment to an underlying link of the aggregate on the basis of an Internet protocol (IP) identifier (ID)*** of each datagram and a number of active links of the aggregate; and  
    ***transmitting the fragment over its associated underlying link*** from the server to the computer network.

Boucher discloses an intelligent network interface card (INIC) which is interconnected to a slow-path (Fig. 6, 158) and a fast-path (Fig 6, 159). *See* paragraphs 0013 and 0052. When the INIC receives a packet, the INIC selects either the slow-path or the fast-path for transmission “based on whether the host may benefit from this message connection being handled by the CPD, which includes determining whether the packet has header bytes denoting particular protocols, such as TCP/IP or SPX/IPX for example. *See* paragraph 0041. In a separate discussion, Boucher mentions that an IP\_ID may be used to reassemble fragmented IP segments. *See* paragraph 0109.

The Applicant respectfully urges that Boucher is silent concerning the Applicant’s claimed “*uniformly distributing data transmitted by a server over a plurality of underlying links*” by “*associating each fragment to an underlying link of the aggregate on the basis of an Internet protocol (IP) identifier (ID)*” and “*transmitting the fragment over its associated underlying link.*”

While the Applicant novelly teaches associating fragments to links *on the basis of an Internet protocol (IP) identifier (ID)*, Boucher discloses associating packets with either a fast-path or a slow-path based, at least in part, on protocol type. For example, Boucher discusses associating a packet with a path depending on whether the header indicates the packet is a TCP/IP packet or a SPX/IPX packet. *See* paragraph 0041. Rather than using a protocol type, the Applicant novelly teaches using IP ID to determine which link a fragment should be transmitted on.

The Applicant notes that the only discussion of IP ID in Boucher is in relation to reassembling IP fragments, a conventional use of IP ID. *See* paragraph 0109. Using IP ID to reassemble IP fragments is far different from using IP ID as a basis for associating a fragment with a particular link for ***uniformly distributing data over links***. Accordingly, nothing in Boucher teaches or suggests using IP ID for ***uniformly distributing data over links***.

Accordingly, the Applicant respectfully urges that Boucher is legally insufficient to anticipate the present claims under 35 U.S.C. §102 because of the absence of the Applicant's claimed novel "***uniformly distributing data transmitted by a server over a plurality of underlying links***" by "***associating each fragment to an underlying link of the aggregate on the basis of an Internet protocol (IP) identifier (ID)***" and "***transmitting the fragment over its associated underlying link***."

### ***Claim Rejections - 35 U.S.C. §103***

At paragraphs 12-19 of the Final Office Action, the Examiner rejected claims 2, 3, 12, 13, 17, and 18 under 35 U.S.C. §103 as being unpatentable over Boucher, in view of Takagi, U.S. Publication No. 2001/0036154, filed on April 20, 2001(hereinafter Takagi).

The Applicant notes Takagi was filed on March 12<sup>th</sup>, 2001, approximately 2 months before the Applicant's filing date. While the Applicant does not admit Takagi has actual prior art status, even assuming arguendo Takagi is prior art, the reference, in

combination with Boucher, would not make obvious the Applicant's claims as explained below.

At paragraphs 20-24 of the Final Office Action, the Examiner rejected claims 4, 14, and 19 under 35 U.S.C. §103 as being unpatentable over Boucher, in view of Narad et al., U.S. Patent No. 6,157,955 issued on Dec. 5<sup>th</sup>, 2000 (hereinafter Narad).

At paragraphs 25-30 of the Final Office Action, the Examiner rejected claims 5, 15, and 20 under 35 U.S.C. §103 as being unpatentable over Boucher, in view of Takagi, and in further view of Narad.

At paragraphs 31-37 of the Final Office Action, the Examiner rejected claims 6-8 under 35 U.S.C. §103 as being unpatentable over Boucher, in view of Takagi, and in further view of Narad, and in view of "Official Notice."

The Applicant traverses the Examiner's Official Notice.

The Applicant respectfully notes that claims 2-8, 12-15, and 17-20 are dependent claims that depend from independent claims which are believed to be in condition for allowance. Accordingly claims 2-8, 12-15, and 17-20 are believed to be in condition for allowance.

In the event that the Examiner deems personal contact desirable in disposition of this case, the Examiner is encouraged to call the undersigned attorney at (617) 951-3078.

All independent claims are believed to be in condition for allowance.

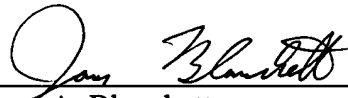
All dependent claims are believed to be dependent from allowable independent claims.

The Applicant respectfully solicits favorable action.

Please charge any additional fee occasioned by this paper to our Deposit Account

No. 03-1237.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James A. Blanchette", is written over a horizontal line.

James A. Blanchette  
Reg. No. 51,477  
CESARI AND MCKENNA, LLP  
88 Black Falcon Avenue  
Boston, MA 02210-2414  
(617) 951-2500